
Introduced by Senator Runner

February 18, 2005

An act to amend Section 21151.1 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 476, as introduced, Runner. Environmental quality: environmental impact reports: waste projects.

Existing law, the California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare or cause to be prepared a modification, addendum, or supplement to an existing environmental impact report, for any project involving specified waste-burning projects, land disposal facilities, and offsite large waste treatment facilities.

This bill would make technical, nonsubstantive changes in those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21151.1 of the Public Resources Code is
- 2 amended to read:
- 3 21151.1. (a) Notwithstanding paragraph (6) of subdivision
- 4 (b) of Section 21080, or Section 21080.5 or 21084, or any other

1 provision of law, except as provided in this section, a lead agency
2 shall prepare or cause to be prepared by contract, and certify the
3 completion of, an environmental impact report or, if appropriate,
4 a modification, addendum, or supplement to an existing
5 environmental impact report, for any project involving any of the
6 following:

7 (1) (A) The burning of municipal wastes, hazardous waste, or
8 refuse-derived fuel, including, but not limited to, tires, if the
9 project is either of the following:

10 (i) The construction of a new facility.

11 (ii) The expansion of an existing facility that burns hazardous
12 waste that would increase its permitted capacity by more than 10
13 percent.

14 (B) This paragraph does not apply to any project exclusively
15 burning hazardous waste, for which a final determination under
16 Section 21080.1 has been made prior to July 14, 1989.

17 (2) The initial issuance of a hazardous waste facilities permit
18 to a land disposal facility, as defined in subdivision (d) of Section
19 25199.1 of the Health and Safety Code.

20 (3) The initial issuance of a hazardous waste facilities permit
21 pursuant to Section 25200 of the Health and Safety Code to an
22 offsite large treatment facility, as defined pursuant to subdivision
23 (d) of Section 25205.1 of the Health and Safety Code.

24 (4) A base reuse plan as defined in Section 21083.8 or
25 21083.8.1. The Legislature hereby finds that no reimbursement is
26 required pursuant to Section 6 of Article XIII B of the California
27 Constitution for an environmental impact report for a base reuse
28 plan if an environmental impact report is otherwise required for
29 that base reuse plan pursuant to any other provision of this
30 division.

31 (b) For purposes of clause (ii) of subparagraph (A) of
32 subparagraph (B) of paragraph (1) of subdivision (a), the amount
33 of expansion of an existing facility shall be calculated by
34 comparing the proposed facility capacity with whichever of the
35 following is applicable:

36 (1) The facility capacity authorized in the facility's hazardous
37 waste facilities permit pursuant to Section 25200 of the Health
38 and Safety Code or its grant of interim status pursuant to Section
39 25200.5 of the Health and Safety Code, or the facility capacity
40 authorized in any state or local agency permit allowing the

1 construction or operation of a facility for the burning of
2 hazardous waste, granted before January 1, 1990.

3 (2) The facility capacity authorized in the facility's original
4 hazardous waste facilities permit, grant of interim status, or any
5 state or local agency permit allowing the construction or
6 operation of a facility for the burning of hazardous waste, granted
7 on or after January 1, 1990.

8 (c) For purposes of paragraphs (2) and (3) of subdivision (a),
9 the initial issuance of a hazardous waste facilities permit does not
10 include the issuance of a closure or postclosure permit pursuant
11 to Chapter 6.5 (commencing with Section 25100) of Division 20
12 of the Health and Safety Code.

13 (d) Paragraph (1) of subdivision (a) does not apply to any
14 project that does any of the following:

15 (1) Exclusively burns digester gas produced from manure or
16 any other solid or semisolid animal waste.

17 (2) Exclusively burns methane gas produced from a disposal
18 site, as defined in Section 40122, that is used only for the
19 disposal of solid waste, as defined in Section 40191.

20 (3) Exclusively burns forest, agricultural, wood, or other
21 biomass wastes.

22 (4) Exclusively burns hazardous waste in an incineration unit
23 that is transportable and that is either at a site for not longer than
24 three years or is part of a remedial or removal action. For
25 purposes of this paragraph, "transportable" means any equipment
26 that performs a "treatment" as defined in Section 66216 of Title
27 22 of the California Code of Regulations, and that is transported
28 on a vehicle as defined in Section 66230 of Title 22 of the
29 California Code of Regulations.

30 (5) Exclusively burns refinery waste in a flare on the site of
31 generation.

32 (6) Exclusively burns in a flare methane gas produced at a
33 municipal sewage treatment plant.

34 (7) Exclusively burns hazardous waste, or exclusively burns
35 hazardous waste as a supplemental fuel, as part of a research,
36 development, or demonstration project that, consistent with
37 federal regulations implementing the Resource Conservation and
38 Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.),
39 has been ~~determined~~ found to be innovative and experimental by
40 the Department of Toxic Substances Control and that is limited

1 in type and quantity of waste to that necessary to determine the
2 efficacy and performance capabilities of the technology or
3 process; provided, however, that any facility that operated as a
4 research, development, or demonstration project and for which
5 an application is thereafter submitted for a hazardous waste
6 facility permit for operation other than as a research,
7 development, or demonstration project shall be considered a new
8 facility for the burning of hazardous waste and shall be subject to
9 subdivision (a) of Section 21151.1.

10 (8) Exclusively burns soils contaminated only with petroleum
11 fuels or the vapors from these soils.

12 (9) Exclusively treats less than 3,000 pounds of hazardous
13 waste per day in a thermal processing unit operated in the
14 absence of open flame, and submits a worst-case health risk
15 assessment of the technology to the Department of Toxic
16 Substances Control for review and distribution to the interested
17 public. This assessment shall be prepared in accordance with
18 guidelines ~~set forth~~ *described* in the Air Toxics Assessment
19 Manual of the California Air Pollution Control Officers
20 Association.

21 (10) Exclusively burns less than 1,200 pounds per day of
22 medical waste, as defined in Section 117690 of the Health and
23 Safety Code, on hospital sites.

24 (11) Exclusively burns chemicals and fuels as part of
25 firefighter training.

26 (12) Exclusively conducts open burns of explosives subject to
27 the requirements of the air pollution control district or air quality
28 management district and in compliance with OSHA and
29 Cal-OSHA regulations.

30 (13) Exclusively conducts onsite burning of less than 3,000
31 pounds per day of fumes directly from a manufacturing or
32 commercial process.

33 (14) Exclusively conducts onsite burning of hazardous waste
34 in an industrial furnace that recovers hydrogen chloride from the
35 flue gas if the hydrogen chloride is subsequently sold, distributed
36 in commerce, or used in a manufacturing process at the site
37 where the hydrogen chloride is recovered, and the burning is in
38 compliance with the requirements of the air pollution control
39 district or air quality management district and the Department of
40 Toxic Substances Control.

1 (e) Paragraph (1) of subdivision (a) does not apply to any
2 project for which the State Energy Resources Conservation and
3 Development Commission has assumed jurisdiction under
4 Chapter 6 (commencing with Section 25500) of Division 15.

5 (f) Paragraphs (2) and (3) of subdivision (a) shall not apply if
6 the facility only manages hazardous waste that is identified or
7 listed pursuant to Section 25140 or 25141 on or after January 1,
8 1992, but not before that date, or only conducts activities that are
9 regulated pursuant to Chapter 6.5 (commencing with Section
10 25100) of Division 20 of the Health and Safety Code on or after
11 January 1, 1992, but not before that date.

12 (g) This section does not exempt any project from any other
13 requirement of this division.

14 (h) For purposes of this section, offsite facility means a facility
15 that serves more than one generator of hazardous waste.